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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,013	11/13/2000	Gerald M. Clement	207001	6625

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EXAMINER

KRECK, JOHN J

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 12/05/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/622,013

Applicant(s)

CLEMENT, GERALD M.

Examiner

John Kreck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

1. Claims 1, 3, 4, 7-9, 11, 13, 14, 17-19, 21, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller, et al. (U.S. Patent Number 5,865,564).

The Miller reference (see figure 6) shows a dike section having a length and comprising a first bladder formed of a flexible material to contain a liquid and a second elongate bladder formed of a flexible material to contain a liquid, the first and second bladders extending in side by side relation; at least one wall dividing the first bladder from the second bladder, the wall formed to prevent any flow of liquid from the first to second bladder as called for in claim 1.

The Miller reference also shows the bladders formed separately as called for in claim 3.

The Miller reference also shows the sealable port (see figure 4) as called for in claim 4.

The Miller reference also shows the dike as called for in claim 7.

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The Miller reference also shows the bladders filled with liquid as called for in claim 8.

The Miller reference also shows the additional bladder and base layer and second layer of bladders in pyramidal configuration as called for in claim 9.

The Miller reference also shows the bladders comprising a tube closed at the ends and having a side wall and a long axis; a membrane (see figures 7 and 8) extending across the interior tube parallel with the long axis and at least one port as called for in claim 11.

The Miller reference also shows the perforated membrane as called for in claim 13.

The Miller reference also shows the bladder comprises a tube closed at the ends and having a sidewall and a long axis, at least one end of the bladder being folded back a selected distance; an end reinforcing sleeve for securing the end in folded configuration against the bladder (see figure 11) and at least one port as called for in claim 14.

The Miller reference also shows the dike bladder comprising a tube closed at its ends and having a wall and a long axis, the tube formed to be flexible and watertight and at least one port as called for in claim 17.

The Miller reference also shows the bladder folded back a selected distance and the end reinforcing sleeve as called for in claim 18.

The Miller reference also shows the membrane as called for in claim 19.

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The Miller reference also shows the perforated membrane as called for in claim 21.

The Miller reference also shows the dike as called for in claim 24.

The Miller reference also shows the liquid as called for in claim 25.

2. Claims 1-4, 7-10, 14, 17, 18, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Doolaege (U.S. Patent Number 5,059,065).

The Doolaege reference shows a dike section having a length and comprising a first bladder formed of a flexible material to contain a liquid and a second elongate bladder formed of a flexible material to contain a liquid, the first and second bladders extending in side by side relation; at least one wall dividing the first bladder from the second bladder, the wall formed to prevent any flow of liquid from the first to second bladder as called for in claim 1.

The Miller reference also shows the bladders secured together as called for in claim 2.

The Doolaege reference also shows the bladders formed separately as called for in claim 3.

The Doolaege reference also shows the sealable port as called for in claim 4.

The Doolaege reference also shows the dike as called for in claim 7.

The Doolaege reference also shows the bladders filled with liquid as called for in claim 8.

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The Doolaege reference also shows the additional bladder and base layer and second layer of bladders in pyramidal configuration as called for in claim 9.

The Miller reference also shows the bladders secured together as called for in claim 10.

The Doolaege reference also shows the bladder comprises a tube closed at the ends and having a sidewall and a long axis, at least one end of the bladder being folded back a selected distance; an end reinforcing sleeve for securing the end in folded configuration against the bladder and at least one port as called for in claim 14.

The Doolaege reference also shows the dike bladder comprising a tube closed at its ends and having a wall and a long axis, the tube formed to be flexible and watertight and at least one port as called for in claim 17.

The Doolaege reference also shows the bladder folded back a selected distance and the end reinforcing sleeve as called for in claim 18.

The Doolaege reference also shows the dike as called for in claim 24.

The Doolaege reference also shows the liquid as called for in claim 25.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 5 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Miller, et al. or Doolaege in view of any one of Givens (U.S. Patent Number 4,890,569); Borgquist (U.S. Patent Number 4,807,405); or Parish (U.S. Patent Number 4,655,008).

The Miller and Doolaege references teach all of the limitations of claims 1 and 17, from which claims 5 and 22 depend. These references fail to teach the pressure release valves in the wall of the bladder.

It is well known and old when using inflatable bladders to place pressure release valves in the wall of the inflatable bladder. This is done to prevent rupture of the bladder (as shown by Parrish—see col. 3, lines 48-55 and by Givens—see col. 3, lines 34-39) or to simplify the deflation of the bladder (as shown by Borgquist—see col. 4, lines 40-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention of either Miller or Doolaege to have a pressure release valve in the wall of the bladder, as called for in claims 5 and 22, in order to prevent rupture of the bladder, or to facilitate deflation.

4. Claims 6 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Miller, et al. or Doolaege in view of Matsuoka, et al. (U.S. Patent Number 5,127,766)

The Miller and Doolaege references teach all of the limitations of claims 1 and 17, from which claims 6 and 23 depend. These references fail to teach the pressure monitoring means.

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The Matsuoka reference shows a similar bladder system which includes a pressure monitoring means selected to emit a signal if the pressure in the bladder falls below a predetermined level. This is done to allow the pressure to be increased in order to prevent buckling of the bladder.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified either one of the Miller or Doolaege inventions to have included a pressure monitoring means selected to emit a signal if the pressure in the bladder falls below a predetermined level as called for in claims 6 and 23, in order to allow the pressure to be increased in order to prevent buckling of the bladder.

5. Claims 6 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Miller, et al. or Doolaege.

The Miller and Doolaege references teach all of the limitations of claim 1, from which claims 15 and 16 depend. These references fail to teach the liquid tight sheet.

It is well known in the art of flood control to use liquid tight sheets in combination with sandbags to form a dike or levee. The liquid tight sheets are usually placed on the ground on which the dike is to be positioned and extend over the containment side of the dike. This is done in order to prevent water seepage through or between the bags. The printout of FEMA web pages is cited to show this well known and old sandbagging method.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention of either Miller or Doolaege to have a liquid

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tight sheet extending over the dike from a position beneath the dike to cover the containment side to a position above the liquid to be contained, as called for in claim 15, or positioned against the containment side and extending out away from the dike section over a ground surface on which the dike is to be positioned as called for in claim 16, in order to prevent water seepage between the bladders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (703)308-2151. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3597 for regular communications and (703)305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.

JJK
November 28, 2001


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